

**STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD**

IN RE: Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities	IOWA ADMIN. CODE 199-31.3(476)
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APPLICATION FOR CONFIDENTIAL TREATMENT

COME NOW Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty Midstates”), and hereby moves the Iowa Utilities Board (“Board”) pursuant to Iowa Code §22.7(3) and (6) and 199 IAC 1.9, and requests that the documents further described herein, filed in support of Liberty Midstates’ Response to Second Board Order Requesting Additional Information, all of which have been filed confidentially herewith, be kept confidential by the Iowa Utilities Board (the “Board”). In support of its Application for Confidential Treatment (“Application”), Liberty Midstates states as follows:

1. Simultaneously herewith, Liberty Midstates has filed its Response to Second Board Order Requesting Additional Information (“Response”). In support of its Response, Liberty Midstates has filed the following documents (the “Confidential Documents”) under seal with this Application:

- a. Reconciliation of gas usage and customers;
- b. Customer usage information for Commercial Firm and Commercial Interruptible rate groups;
- c. Liberty Midstates Capital Structure (Filing Requirement 26(5)e(3);

- d. Revised Liberty Midstates Debt and Preferred Stock Discount, Premium and Expense documents containing cost of debt calculation and unamortized long term debt calculations (Filing Requirement 26(5)e(13));
- e. Revised JMS Exhibit 3, Schedule 3 Keokuk Steel Casting Revenue Adjustment;
- f. Excel versions of revised cost of service model;
- g. Comparison of total costs allocated to each customer class using the initial and revised cost-of service studies.

(The documents identified in subparagraphs 1(c) through 1(e) above are hereafter referenced as the “Liberty Midstates Confidential Documents”). The documents referenced in subparagraphs 1(a) through 1(b) contain usage information about an individual customer or customers which is confidential and a matter of individual privacy and are required to be kept confidential pursuant to Iowa Code § 22.7(6) (“Customer Confidential Documents”). The documents referenced in subparagraphs 1(f) through 1(g) contain proprietary information developed by Liberty Midstates’ expert witness (“Proprietary Expert Documents”). Liberty Midstates requests that the Board maintain the confidentiality of the Confidential Documents for the reasons set forth in the remainder of this Application.

2. The Liberty Midstates Confidential Documents are also entitled to be maintained as confidential by the Board pursuant to Iowa Public Records Law, Iowa Code §22.7(3) and (6).

3. The Public Records Law protects from public disclosure “[t]rade secrets which are recognized and protected as such by law,” as well as “[r]eports to governmental agencies which, if released, would give advantage to competitors and serve

no public purpose.” Iowa Code § 22.7(3), (6). Iowa Code § 550.2(4) defines “trade secret” to mean “information . . . that . . . [d]erives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by a person able to obtain economic value from its disclosure or use . . . [and] [i]s the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” The Iowa Supreme Court has given §550.2(4) a broad reading and has found that business information in many forms may also fall within the definition of trade secret. *Economy Roofing & Insulating Co. v. Zumaris*, 538 N.W.2d 641, 646-47 (Iowa 1995) (acknowledging the Court’s broad interpretation of the kinds of information which can legally constitute trade secrets).

4. The information contained in the Liberty Midstates Confidential Documents is information that Liberty Midstates makes every effort to protect from public disclosure. The Liberty Midstates Confidential Documents contain financial data for Liberty Midstates. The financial data is treated as *highly confidential* information by Liberty Midstates in practice and is *extremely* limited in availability.

5. Likewise, the information contained in the Expert Proprietary Documents is information that Liberty’s expert witness, Timothy Lyons, and his firm Scott Madden, make every effort to protect from public disclosure. The models contained in the exhibits were developed by Lyons and constitute a trade secret. Therefore, Liberty Midstates Confidential Documents and the Expert Proprietary Documents satisfy the requirements for confidentiality under both Iowa Code § 22.7(3) and 22.7(6).

6. Further, the Customer Confidential Documents contain cost and usage information for Liberty Midstates’ customers which, if released to the general public,

would give an unfair advantage to existing and potential competitors of Liberty Midstates and constitutes an invasion of the right of privacy for Liberty Midstates' customers. *National Parts and Conservation Ass'n v. Morton*, 498 F.2d 765, 768 (U.S.C.A. 1974) (holding that one purpose for exceptions to open record laws is to "protect[] persons who submit financial or commercial data to government agencies from the competitive disadvantages which would result from its publication"). Specifically, here, release of the Customer Confidential Documents would give an unfair advantage to potential companies seeking to negotiate contracts with Liberty Midstates customers and would serve no public purpose. *Id.* Therefore, the Customer Confidential Documents qualifies for an exclusion to the general rule of public access to reports made to governmental agencies, as allowed by Iowa Code § 22.7(6).

7. For all of these reasons, the Board should maintain the confidentiality of the Confidential Documents filed under seal with this Application.

8. Attached hereto is the Affidavit in support of this Application executed by an officer of Liberty Midstates, as required by 199 IAC 1.9(6)(b).

WHEREFORE, Liberty Midstates respectfully requests that the Board enter an order granting Liberty Midstates' Application for Confidential Treatment and directing that the Confidential Documents filed under seal herewith be withheld from public inspection pursuant to Iowa Code §§ 22.7(3) and (6) and 199 IAC 1.9(5)a(1).

Dated: November 10, 2016.

Respectfully submitted,

/s/ Rachel T Rowley

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ATTORNEYS FOR LIBERTY UTILITIES

AFFIDAVIT

STATE OF IOWA)
)
COUNTY OF POLK)

I, Christopher D. Krygier, of lawful age and having been duly sworn on oath hereby state as follows:

1. I am the Director of Regulatory & Government Affairs for Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty Utilities”) and I am authorized to make the following verification on behalf of Liberty Utilities.
2. I have read the foregoing request for confidential treatment and the statements therein are true and correct to the best of my knowledge, information, or belief.

/s/ Christopher D. Krygier

Christopher D. Krygier, Director of Regulatory &
Government Affairs
Liberty Utilities (Midstates Natural Gas) Corp.
d/b/a Liberty Utilities

SWORN TO AND SUBSCRIBED before me on the 10th day of November, 2016.

/s/ Christina Hotle
Christina Hotle, Commission No.: 766525
Notary Public In and For the State of Iowa

My commission expires: February 1, 2017